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The Commonwealth of Massachusetts
Massachusetts Senate

TOWARD GAMING REGULATION:
Part II: Problem Gambling, and Regulatory Matters
(Senate 1590)

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on Post Audit and Oversight
Senator Thomas C. Norton, Chairman

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Commonwealth of Massachusetts

MASSACHUSETTS SENATE

The Honorable William M. Bulger
President of the Senate

**TOWARD GAMING REGULATION:
Part II: Problem Gambling, and Regulatory Matters**

(Senate 1590)

A Report of the

SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT

Sen. Thomas C. Norton, Chairman

Sen. W. Paul White, Vice-Chairman

Sen. Linda J. Melconian

Sen. Robert A. Havern

Sen. Mark C. W. Montigny

Senator Robert C. Buell

Senator Jane M. Swift

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March 1994



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March 15, 1994

Edward B. O'Neill
Clerk of the Senate
State House, Room 208
Boston, MA 02133

Dear Mr. O'Neill:

Pursuant to M.G.L. Chapter 3, Section 63 as most recently amended by Chapter 557 of the Acts of 1986, the Senate Committee on Post Audit and Oversight respectfully submits to the full Senate the following report: Toward Gaming Regulation, Part II: Problem Gambling, and Regulatory Matters.

This report is based on research by the Senate Post Audit and Oversight Bureau. It examines research and prevalence data on problem gambling in Massachusetts, and gaming regulatory issues, including statutory and administrative structure.

Respectfully filed by the Senate Committee on Post Audit and Oversight:

Senator Thomas C. Norton
Chairman

Senator W. Paul White
Vice-Chairman

Senator Linda J. Melconian

Senator Robert A. Havern

Senator Mark C. W. Montigny

Senator Robert C. Buell

Senator Jane M. Swift

EXECUTIVE SUMMARY

Massachusetts is an active participant in the gambling industry, sanctioning legalized wagering on a variety of venues and annually appropriating as much as \$10 million for Lottery advertising. However, Massachusetts has done little to address problem gambling.

- The Department of Public Health (DPH) has never commissioned or conducted a prevalence survey of problem gambling in Massachusetts.
- The Commonwealth appropriates no state tax dollars, and less than \$250,000 in unclaimed lottery prize monies for education and treatment of problem gambling.

A 1975 survey by the National Gambling Commission concluded that there were between six million and nine million problem gamblers in the country, 0.77 percent probable compulsive gamblers, and 2.33 percent potential compulsive gamblers.

Data specific to Massachusetts were not available until the late 1980's, when a state-by-state analysis of showed that 2.1 percent of Massachusetts residents were problem gamblers, and another 2.3 percent probable pathological gamblers. These percentages were similar to those for New York (2.8 percent problem gamblers), California (2.9 percent), New Jersey (2.8 percent), and Maryland (2.4 percent).

Applied to the current Massachusetts population census, the research would indicate that between 1.8 and 2.1 percent of Massachusetts residents are either problem or potential pathological gamblers.

Problem gambling treatment is facilitated through self-help groups, and psychoanalytic methods. Fewer than ten percent of persons seeking assistance from self-help groups remain free from gambling. Psychoanalytic treatments range from individual and family counseling to drug therapy, however treatment facilities are relatively new and, as such, there are few studies gauging their success rates and methods. (Although the first such program [Brecksville Ohio] recorded a success rate of fifty-six percent.)

Problem gambling has only recently been addressed by the Commonwealth. DPH was charged in 1987 with *expending revenue* for a compulsive gamblers program, but not with designing or implementing a treatment program. DPH re-directs unclaimed Lottery prize monies to the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling. The Council also receives \$100,000 per year from Suffolk Downs.

Although there is no shortage of anecdotal evidence supporting the condition, few statistical analyses of problem gambling have been conducted. There are no data to support the contention that expanded gambling will cause an exponential increase in problem gambling. Nor are there data showing that gaming venues "cause" problem gambling. Three of the five most popular venues of choice for problem gamblers in Massachusetts are currently illegal. Problem gamblers gamble regardless of the legal status of a venue. An expansion of gaming in Massachusetts may cause a marginal increase in problem gambling. However this increase may just as well occur in response to the expansion of gaming opportunities in Rhode Island, Connecticut, New Hampshire, or New York. Massachusetts residents can not be insulated from gaming opportunities.

The decision to expand gaming in Massachusetts is similar to the decision to allow liquor stores

near the New Hampshire border to open on Sundays and holidays. That decision was based in economic reality, and not with regard to a social condition (problem drinking) that may, or may not, be exacerbated by the policy. The decision to expand gaming in Massachusetts should be based upon similar grounds.

The Committee believes that the Commonwealth must make every effort to provide services and treatment to those who are unable to control their compulsion, just as the state regulates other social activities which may aggravate *compulsive or addictive* behaviors. The Commonwealth should make every effort to reconcile and make consistent its policy on gambling as it has attempted to make consistent its policy on drinking.

Just as the extent and depth of problem gambling requires state attention, the industry that has given rise to the very subject also requires investigation, governance, and regulation. While the New England gaming industry has exploded over the past twenty years the gaming regulatory structure has remained relatively static. Twenty years ago, gaming oversight in Massachusetts was provided by the state Racing Commission and the state Lottery Commission, as it is today. Both agencies work independent of each other, and have made no attempt to coordinate rules, regulations, or policies.

Massachusetts is not alone in its fragmented approach to gaming regulation. State governments generally initiate and implement gaming policy without regard to an overall plan. Nevada and Connecticut, which have created gaming policy boards, are two exceptions to this rule. And while most states do not have gaming policy boards, many have established regulatory agencies. These bodies regulate either skilled or unskilled venues. Few states merge the oversight of skilled games and unskilled games.

Many states have created gaming commissions. Most were created one year prior to the implementation of casino gaming. Gaming commissions regulate land or water-based casino gaming, establish regulatory strictures, enforce statutory compliance, and render licensure decisions. They are composed of gubernatorial appointees, whose policy directives are implemented by a subordinate agency, a state gaming board.

Massachusetts does not have a comprehensive gaming regulatory body. The Lottery Commission, which oversees unskilled gaming, is not a policy making body. It meets irregularly, rarely in full attendance, and does not vote to approve policy changes, or request policy research. Lottery policy is initiated and implemented by the state Treasurer and the Lottery's executive director. The Massachusetts State Racing Commission is a policy making body that meets weekly, and votes on policy, however its oversight is restricted to the state's four pari-mutuel facilities.

The Committee believes that gaming regulation in Massachusetts must be updated and streamlined. The Commonwealth is attempting to regulate one of the fastest growing sectors of the economy with an outdated structure.

The Commonwealth does not have an agency that can plan the state's gaming policy. Policy decisions that favorably affect one segment of the industry may have an unfavorable impact on another segment. The Committee believes that the Commonwealth must develop a state-wide gaming policy board that would define the state's overall gaming policy, and its gaming advertising policy.

Decisions about the state's gaming mix should remain independent from decisions about the

state's gaming regulatory structure. The Committee believes that sound regulation is best maintained when a degree of tension exists between an industry and its regulator.

As such, the state should also create a state gaming commission to develop, implement, oversee, and regulate all skilled gaming in the Commonwealth, with the exception of pari-mutuel racing. This commission should be made up of three full-time commissioners, appointed by the governor, who devote their full attention and duties to the development, regulation, and oversight of casino gaming, and electronic wagering in Massachusetts.

It should be made clear that no applicant for a gaming license in Massachusetts has any right to such a license. Any state gaming license that is granted by the state is revocable by that same state.

RECOMMENDATIONS

- 1) *That the Massachusetts Department of Public Health fund a comprehensive study to measure 1) the prevalence of compulsive, obsessive behaviors in Massachusetts; 2) the prevalence of problem gamblers in Massachusetts; 3) the prevalence of underage problem gamblers in Massachusetts; 4) the social cost of problem gambling in Massachusetts. Said study should also suggest an educational and treatment program applicable to problem gambling in Massachusetts, and include and define the target population to be served by such a program, and outline the required resources.*
- 2) *That the Massachusetts Department of Public Health, in conjunction with the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling, develop and coordinate a state-wide problem gambling education and treatment program. All monies for this program should be funded through the Department of Public Health, including unclaimed prize money from the State Lottery, and revenues generated from racing and gaming facilities throughout the state.*
- 3) *That the State Lottery annually transfer to the Department of Public Health five percent of their annual advertising budget, to be used to fund a state-wide problem gambling education and treatment program. These monies should be in addition to those currently appropriated from the Lottery's unclaimed prize monies.*
- 4) *The Commonwealth should establish a Massachusetts Gaming Policy Board, composed of the Lieutenant Governor of the Commonwealth, the Attorney General, the state Treasurer, the secretary of Consumer Affairs, the state Racing Commissioner, the executive director of the Massachusetts state Lottery, the Secretary of Public Safety, and the commandant of the Massachusetts State Police.*
- 5) *The Commonwealth should establish a Massachusetts State Gaming Commission.*

This report concludes the Senate Committee on Post Audit and Oversight's three-part series on the economic and social ramifications of the gaming industry. The first document, Toward Expanded Gaming: A Review of Gaming in Massachusetts (S.1743) was published in September 1993; the second, Toward Gaming Regulation, Part I: Crime (S.100) was published in January 1994.

FOREWORD

This report is the final chapter in the Senate Committee on Post Audit and Oversight's three-part series on the economic and social ramifications of the gaming industry. These documents are based upon information and testimony compiled during the Committee's eight part public hearing series that was held last year. Testimony was submitted by law enforcement officials, and principals of the gaming industry representing land, and water-based casino gaming; video wagering and electronic gaming; thoroughbred, standard-bred, and greyhound dog pari-mutuel racing; the state lottery; Indian gaming affairs; and advocates for problem gambling education and treatment programs.

Gaming has become one of the most widely discussed public policy issues in the state. The subject has been the focus of much legislative debate, and media attention. I dare say that, over the past three years, only the issue of health care has received more sustained public debate in Massachusetts than has the subject of gaming.

So where do we go from here?

Most long-time observers of the subject agree that Massachusetts residents will be impacted by expanded gaming in the very near future. Expansion may come in the form of an unregulated Indian casino; electronic wagering at the state's pari-mutuel racing facilities; the development of off-track betting; or the development of regulated casino gaming in Massachusetts, or in a neighboring state on the Massachusetts border.

We do have a choice, however. We can wait, watch what happens in Rhode Island, Connecticut, New Hampshire, and New York, then react to their initiatives and be captive to their successes.

Or we can be proactive, seize the initiative, and create the strong regulatory structure outlined in this report. I believe that this represents the necessary first step that the Commonwealth must take if it is to remain the regions economic leader.

Gaming is a choice. If gaming is "bad", then kill it. If gaming is immoral, then shut it down across the board. Shut down charitable gaming Vegas Night events. Shut down Bingo. Terminate the Lottery, and close the state's pari-mutuel race tracks. Don't rationalize your prejudice. Don't say the Lottery is O.K. because it is well-regulated and keeps down the local tax burden, but blackjack is gambling and should be prohibited. Gambling is gaming is betting.

It all boils down to economic choice. The choice to spend \$150 on a dinner in a nice restaurant, or \$200 on theater tickets, or spend \$500 on a suit, or \$25,000 on a car. The choice to spend \$5 on a table game. Are these examples of good or bad choices? They may be either, but they should be consumer choices.

I think that a well-planned, carefully regulated casino gaming industry could be up and running within the next two to three years. This industry could generate \$1.5 billion in capital investment, create over twenty-thousand jobs, and annually produce \$300,000 - \$400,000 in new state revenue. A properly leveraged, competitively bid casino license could be used as an economic catalyst for a municipality which chooses to be a host community.

This can all be done in the light of day, without corruption, without an increase in crime, and without inflicting injury to competing entertainment venues. Our first step should be the creation of a state gaming regulatory body that could logically and prudently develop the guidelines and regulatory controls necessary for the future implementation of expanded

gaming in Massachusetts.

The Massachusetts State Lottery works because it is well regulated. Expanded gaming could be overseen with no less forethought and diligence.

I would like to thank the members of the Committee, the staff of the Bureau, and all those who contributed to the preparation and completion of this report.

Senator Thomas C. Norton, Chairman

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INTRODUCTION

The Senate Committee on Post Audit and Oversight conducted a series of public hearings in 1993 to examine the social and economic impacts of the gaming industry. In September 1993 the Committee issued its first report in the wake of the hearings titled Toward Expanded Gaming: A Review of Gaming in Massachusetts (S.1743). This report, which focussed primarily on economic issues, was followed in January 1994 by Toward Gaming Regulation: Part I, Crime (S.100), which examined the relationship between the introduction of a gaming facility and subsequent levels of crime in and around the host community. This document, Toward Gaming Regulation: Part II, Problem Gambling, and Regulatory Matters, is the third and final document that the Committee will issue as a result of its public hearing series.

This report is presented in two parts, both contained within the documents title, which are each deserved of great study and consideration. Problem gambling is a societal problem that the Commonwealth must deal with now, whether or not the decision is made to expand into new gaming venues.¹ The gaming industry is one of the fastest growing sectors of the entertainment industry. As such, its impact will be felt in Massachusetts regardless of where our citizens travel to place their wagers. A state-regulated casino in Providence, Rhode Island will impact Massachusetts residents no less than will an unregulated Indian casino in New Bedford, or a riverboat casino in Springfield. In this report the Committee reviews the data that depicts the prevalence of problem gambling in society today, and reviews strategies that states are using to combat this phenomenon.

The Committee also examined, and reports on regulatory matters that are germane to the industry today. Gaming regulations are complex and powerful vehicles. Regulations have been credited with keeping organized crime out of the regulated casino industry, and with maintaining a reliable flow of revenue into state and local tax coffers. Although the time frame is debatable, most knowledgeable analysts of the industry predict that expanded gaming is coming to Massachusetts. So that the Commonwealth can control, and be prepared for its arrival, the Committee believes that regulatory matters need to be addressed now. This document presents the Committee's research into this area, and contains recommended actions that the Commonwealth now take to establish a Massachusetts gaming policy, and in control

¹The inability to control one's gambling habit has variously been called compulsive gambling, excessive gambling, and problem gambling. The Committee has chosen to utilize the latter term throughout this report as it best represents the disease's many facets.

of the situation, and the industry.

The Committee would like to extend its sincere appreciation to the many individuals who provided it with assistance and documentation and responded to its many requests, including Michael D. Cox, National Indian Gaming Commission; Clyde T. Turner, Michael Sloan, and Michael Rumboltz of Circus Circus Enterprises, Inc.; Sheldon G. Adelson, and David S. Fine of the Interface Group; Richard Bronson, New City Development; Mark Grossman, Las Vegas Hilton; John Giovenco, then of ITT Sheraton Corporation; Andrew Tottenham, Tottenham and Associates; Robert Babcock, Video Lottery Technologies; John Kerner, Massachusetts Gaming Association; Paul Palmer, International Technical Systems of New England; Guy Snowden, G-Tech; Richard Currie, Williams Gaming; William G. Rickett, Dynamo Corporation; William J. Tregor, Jr., Betstar, Ltd.; Ken Kirchner, Pennsylvania Racing Commission; Mark Laino, Illinois Racing Board; Robert Hutchinson, Jr., Massachusetts Racing Commission; John Daily, New York Racing and Wagering Board; George Carney, Raynham-Taunton Dog Track; Robert O'Malley, New Suffolk Downs Corporation; Paul Sarkis, Foxboro Park and Wonderland Greyhound Park; Joseph Carney, Rockingham Park; Martin Maline, National Horsemen's Benevolent and Protective Association; Louise Coleman, Greyhound Friends, Inc.; Charles Bishop, Massachusetts Standardbred Breeders and Owners, Inc.; Bernard Flynn, Massachusetts Thoroughbred Breeders Association; John Sorrentino, Massachusetts Greyhound Association, Inc.; Eric Turner, Massachusetts State Lottery; James Moody, Federal Bureau of Investigation; L. Scott Harshbarger, Attorney General of the Commonwealth; Sgt. Thomas Foley, Massachusetts State Police; Robert Wright; Dennis McCarty, Department of Public Health; Thomas Cummings, Massachusetts Council on Compulsive Gambling; Alan Meisler, The Compulsive Gambling Therapy Center; Howard Shaffer, Ph.D., Zinberg Center for Addictive Studies at Harvard University; Robert Goodman; and Rachel A. Volberg, Ph.D. of Gemini Research, Northampton MA.

PART ONE: PROBLEM GAMBLING

Massachusetts is an active participant in the gambling industry. The Commonwealth has sanctioned legalized wagering on pari-mutuel racing, bingo, Las Vegas Night charity promotions, and the State Lottery. The Commonwealth is also an active promoter of the gambling industry. The Commonwealth has annually appropriated as much as \$10 million for the State Lottery's advertising budget.

Despite its advocacy, Massachusetts has done little to address a concern often associated with gaming: problem gambling. Problem gambling is a phenomenon whereby individuals become "dependent" upon the act of gambling in much the same way that individuals become dependent upon alcohol or nicotine. The "action" of gambling becomes more important than the outcome of the event upon which the wager is made.

Little substantive data has been compiled to define the problem of problem gambling in society today. The Massachusetts Department of Public Health has not commissioned or conducted any field study to document the prevalence of problem gambling in Massachusetts, and the one state-funded treatment center, the Mount Auburn Center for Problem Gambling, does not have the financial capacity to track its patients.

Nevertheless, the condition of problem gambling is now recognized as one which must be confronted, especially insofar as it is exacerbated by activities that are sanctioned, and encouraged, by the state.

According to the Massachusetts Council on Compulsive Gambling, problem gambling is the only social problem whose victims look within the problem for a solution to their problems. In other words, problem gamblers turn to gambling to solve their gambling problems. This circular logic generally results in the gambler deepening his or her indebtedness as new gambling debts are incurred in futile attempts to win money to pay off past gambling debts. Consequently, the social image of the problem gambler is now similar to the image formerly associated with the problem drinker: a weak person with little self-control.

Massachusetts has paid little official attention to the subject of problem gambling. Since fiscal year 1990, the Commonwealth has annually appropriated less than \$250,000 for education and

treatment of the condition.² Ironically, unclaimed Lottery prize monies are used as the funding source for the problem gambling programs that the Commonwealth has funded. No state tax revenues are directed into problem gambling education and treatment programs.

Measuring the Problem

In 1975 the National Gambling Commission asked the University of Michigan Survey Research Center to "conduct a detailed survey of American gambling practices and attitudes."³ The Center subsequently surveyed 1,736 persons across the country and compiled data on betting participation by demographic characteristics.

According to the collected data, sixty-one percent of the sample population admitted gambling on one type of activity or another, ranging from legal lottery wagers to illegal sports bets. Seven percent stated that they had placed only legal wagers (i.e. state lottery, pari-mutuel racing) while eleven percent said that they had gambled on illegal venues.

Legal wagers were placed on such commercial enterprises as state lotteries, pari-mutuel facilities, and casinos, while illegal betting centered around sports cards and the street number. Gambling preferences were geographically skewed, with:

- a greater percentage of inhabitants of the Northeast gambled than their counterparts in the South;
- residents of large urban areas were more likely to gamble than residents of small cities;
- residents within fifty miles of major urban areas were more likely to place illegal wagers than people living farther away from cities.

The Commission study touched on the subject of problem gambling, stating that:

estimates of the number of compulsive gamblers in the United States are few and of doubtful authority. The most commonly cited one is that of Gamblers Anonymous which claims that there are between six million and nine million. The organization cites no basis for this figure; but in the absence of any more credible estimate it has achieved wide currency. No estimate exists of the extent to which widespread legalization would affect this number.⁴

²Budgetary line item 4512-0225.

³Commission on Review of National Policy Toward Gambling, The Stakes are high, document number 19224, Washington D.C. 1975.

⁴Final report, pp. 72,73.

The Commission included a "personality-oriented section (in the survey) geared to elicit responses that would indicate whether an individual was likely to become a compulsive gambler." A clinical analysis was subsequently conducted to sort out the responses of those indicated as having a probable gambling problem.

The Commission subsequently estimated that 0.77 percent of the sample population could be classified as "probable compulsive gamblers, with another 2.33 percent as potential compulsive gamblers." Significantly more men were classified as probable or potential problem gamblers (1.1 percent and 2.7 percent, respectively) than women (who ranked 0.2 percent and 2 percent, respectively).

The Commission survey did not examine the betting habits or the prevalence of compulsive gambling of residents of individual states, with the sole exception of Nevada. In fact, data specific to Massachusetts were not available until the late 1980's, when Policy Research Associates of New York conducted a state-by-state analysis of problem gambling under a National Institute of Mental Health (NIMH) grant. These data, compiled along with data specific to California, Iowa, Maryland, New Jersey, and New York, showed that 2.1 percent of Massachusetts residents scored as problem gamblers, and another 2.3 percent scored as probable pathological gamblers (the latter being a clinical diagnosis).⁵

The Policy Research Associates-NIMH study utilized the South Oaks Gambling Screen, a twenty-item scale derived from the diagnostic criteria for pathological gambling published in the American Psychiatric Association's Diagnostic and Statistical Manual III, (similar to the Screen found in Appendix I). The South Oaks Gambling Screen was constructed to allow for drawing statistical inferences, and relating the results to the greater adult population of the state.

The surveys, which included between 750 and 1,250 persons in each state, were conducted between 1986 and 1990. Persons answering "yes" to three of the Screen's twenty questions were classified as *problem gamblers*, while *probable pathological gamblers* answered "yes" to five or

⁵NIMH Grant (MH-44295), Rachel Volberg, Ph.D. principal investigator. Volberg now heads Gemini Research of Northampton, MA.

more questions.⁶

California, New York and New Jersey residents were identified as having the highest percentage of problem gamblers, while Massachusetts residents were identified as having the highest percentage of probable pathological gamblers. Iowa, which was the only mid-western state analyzed, listed the lowest percentage of problem and probable pathological gamblers. (See Table One: Prevalence Rates of Gambling in Six States.)

TABLE ONE
PREVALENCE RATES OF GAMBLING
IN SIX STATES

<u>State</u>	<u>Population over 18</u>	<u>Sample Size</u>	<u>Problem Gamblers</u>	<u>Pathological Gamblers</u>
NY	12.8 M	1,000	2.8%	1.4%
CA	19.9 M	1,250	2.9%	1.2%
NJ	5.7 M	1,000	2.8%	1.4%
MD	2.9 M	750	2.4%	1.5%
MA	4.2 M	750	2.1%	2.3%
IA	2.9 M	750	1.6%	0.1%

source: Gemini Research

The study attempted to determine differences between the population in general and those persons who were identified as problem or probable pathological gamblers. The researchers found that:

- While males were forty-three percent of all respondents, they were seventy percent of those defined as problem and probable pathological gamblers;
- twenty-six percent of the sample was under the age of thirty, thirty-seven percent of those identified as problem and probable pathological gamblers were under thirty;
- eighteen percent of the sample was non-white, thirty-six percent of those identified as problem and probable pathological gamblers were non-white;
- eleven percent of the sample had not finished high school, while twenty-one percent of those identified as problem and probable pathological gamblers had not finished high school;
- fifty-five percent of the sample was married, as were forty-three percent of those identified as problem and probable pathological gamblers;

⁶Volberg, Rachel A., "Estimating the Prevalence of Pathological Gambling in the United States," Gambling Behavior and Problem Gambling, W.R. Eadington & J.A. Cornelius (eds), Reno: University of Nevada Press, 1993.

●five percent of the sample stated that they had wagered very often during the past year, as did thirty-four percent of those identified as problem and probable pathological gamblers.

The researchers concluded that:

there has been for some time a general consensus among researchers that increasing the availability of gambling opportunities will eventually lead to an increase in problem gambling. The data from the NIMH-funded surveys are the first non-clinical evidence that there may indeed be a link between the availability of wagering opportunities and the prevalence of pathological gambling. Problem gambling is a greater problem in those states where legal wagering has been available for some time. Problem and pathological gamblers are significantly more likely to be men under the age of thirty, to be non-white, and to have lower education than the general population.

The NIMH funded study further analyzed the demographics of gambling. The researchers found that lower income pathological gamblers were younger than high income pathological gamblers, had "far lower" levels of education, and were less likely to be married. The researchers also found that higher income pathological gamblers were more likely than low income pathological wagers to be frequent bettors, and were more likely to "have been criticized by family and friends for their gambling and to have argued with others about their gambling."⁷

Researchers found that higher income pathological gamblers were more likely to be highly educated white males whose gaming habits had damaged interpersonal relationships, while lower income pathological gamblers were less likely to be white, or male, and had "noticeably lower levels of education."⁸

Other studies reviewed by the Senate Committee on Post Audit and Oversight portrayed similar profiles of the "typical" problem gambler. These studies found that males were more likely to be problem gamblers than females; ethnic groups more likely to be problem gamblers than white persons of western European ancestry; and urban residents more likely to gamble than their counterparts in smaller, less dense communities.

Applied to the current Massachusetts population census, the research conducted by the National

⁷Volberg, Rachel A., Steadman, Henry J. "Accurately Depicting Pathological Gamblers: Policy and Treatment Implications," *Journal of Gambling Studies*, Winter 1992, p. 401.

⁸Volberg and Steadman, p. 407.

Gambling Commission and Policy Research Associates-NIMH would indicate that between 1.8 and 2.1 percent of Massachusetts residents are either problem or potential pathological gamblers. This is particularly deserved of attention, in light of the state's active role in the gaming industry.

Treating The Problem

Many problem gambling treatment programs revolve around two basic tenets: abstinence from gambling, and restitution of gambling related debts. The shared community of a self-help group is also generally encouraged as part of the overall treatment plan.

There are two basic approaches to treating problem gambling in the United States: self-help groups, and psychoanalytic methods. Self-help groups are usually so-called "twelve step" programs, and are aimed at the gambler and his or her family. These groups, such as Gambler's Anonymous, Gam-Anon, and Gam-A-Teen, are generally free of charge, yet have relatively low "success rates." Fewer than ten percent of persons seeking assistance from self-help groups remain free from gambling one year after entering the program.⁹

Problem gambling treatment facilities were, until the 1970's, primarily funded and provided by Gamblers Anonymous, a multi-step self-help organization that is similar in philosophy to Alcoholics Anonymous. Gamblers Anonymous (GA), which caters mainly to higher income persons, has seen rapid development in the past few decades. Originally established in 1957, GA had sixteen chapters around the United States in 1960, and six hundred chapters by the late 1980's.¹⁰ In recent years many substance abuse treatment centers have developed problem gambling treatment programs. However, these programs also cater mainly to a higher income clientele.

Psychoanalytic treatments range from individual and family counseling to drug therapy. Most psychotherapeutic treatments place abstinence from gambling at the center of their programs. These gambling treatment facilities are relatively new and, as such, there are few studies gauging their success rates and methods.

⁹Volberg, Rachel A., Establishing Treatment Services for Pathological Gamblers in Manitoba, Report to the Manitoba Lotteries Foundation, 8 June 1993, p. six.

¹⁰Volberg and Steadman, 1992, p. 408.

The first problem gambling treatment program was established in 1972 by the Veteran's Administration at Brecksville, Ohio. This program, one of the few to publish outcome data on its effectiveness¹¹, recorded a success rate of fifty-six percent (of participants who reported abstinence from gambling eighteen months after leaving the program).

Many substance abuse treatment programs now offer in-patient treatment for problem gamblers. These programs are generally covered by omnibus insurance carriers.

Additionally, many out-patient clinics have begun focussing on problem gambling. Out-patient programs are now operating in California, Connecticut, Florida, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, and Pennsylvania, and balance therapy with the various forces that affect their compulsion. Whereas in-patient facilities re-direct behavioral impulses with artificial strictures, persons receiving out-patient treatment must exercise constant and immediate self-control.

Out-patient treatment programs are constructed upon several levels of assistance, including individual therapy, family counseling, marital counseling, and group therapy. Typically, programs run for approximately six months. According to practitioners interviewed by the Committee, out-patient treatment centers can realize success rates of up to seventy percent.

Experts caution that statistics applicable to gamblers in treatment programs are not representative of gamblers outside of treatment programs. Persons being treated for problem gambling have a demonstrated motivation for achieving and sustaining abstinence from gambling. Experts also state that there is very little information on problem gambling recidivism rates.

Problem gambling is, however, known to be a cyclical condition. In fact, approximately forty percent of persons identified as problem gamblers are generally inactive problem gamblers. That is to say, problem gamblers move in and out of the active phase of their condition. While "once a problem gambler, always a problem gambler" may be accurate, "once a problem gambler, always gambling" is not.

Most of the problem gambling treatment centers in the United States structure their treatment

¹¹Volberg, Establishing Treatment Services..., p. 8.

around individual and group psychotherapy. As such, staffing levels often include a psychiatrist, several psychologists, social workers, and peer counselors.

The treatment of problem gambling in other countries tends more towards "behavioral orientation" that is based on the premise that pathological behaviors are learned, and, therefore, subject to being "unlearned." International treatments include chemical aversion therapy, cognitive-behavioral therapies (using stimulus control and covert sensitization), behavioral therapies (aversive therapy, imaginal desensitization, relaxation therapy, and brief or prolonged exposure therapy). According to published reports,

researchers appear to have established that "the arousal elimination factor" was the major cause for change in their clients gambling behavior rather than the link to stimuli associated with gambling. Imaginal desensitization thus compares favorably with the more prolonged therapies reported on in the United States."¹²

Treatment experts have written that although treatment centers generally cater to higher income pathological gamblers, facilities should incorporate treatment modalities which better suit lower income gamblers, as this sub-group must contend with "different, and possibly more frequent life stressors."¹³ Accordingly, treatment programs should emphasize different goals, use different methods, and utilize staffing mixes that address the needs of all income strata of problem gamblers.

The Massachusetts Response to Problem Gambling

Problem gambling has only recently been addressed by Massachusetts state government. In 1985, the state Legislature directed the Executive Office of Human Services to "make an investigation and study relative to the feasibility of establishing a program for the treatment and rehabilitation of compulsive gamblers."¹⁴ The study reviewed general statistics and information, and recommended that Massachusetts "assume a leadership role" in the issue of problem gambling through "funding for information, treatment, training, research, and evaluation" to be paid for with up to \$750,000 in unclaimed Lottery prize monies.¹⁵

¹²Ibid, p. 10.

¹³Volberg and Steadman, 1992, p. 410.

¹⁴Commonwealth of Massachusetts, Great and General Court, Acts and Resolves of 1985 - Resolves, Chapter Eleven.

¹⁵Office of Health Policy, Executive Office of Human Services, Pathological Gambling: Report and Proposal, 1986, p. 10.

In response, the Department of Public Health (DPH) was charged in 1987 with *expending revenue* for a compulsive gamblers program, but not with designing or implementing a problem gamblers treatment program.¹⁶ Consequently, DPH now re-directs unclaimed Lottery prize monies to the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling. This allocation, which reached \$515,000 in 1990, currently averages \$230,000 per year. (The Council also receives \$100,000 per year from Suffolk Downs, which is channelled through the state Racing Commission. This annual payment is scheduled to expire in 1995.)

The Massachusetts Council on Compulsive Gambling is a private non-profit organization that was established in 1983 to:

inform and educate, to develop resources and materials, to conduct seminars, to operate an information center and clearinghouse for the collection, preparation, and dissemination of information on compulsive gambling.¹⁷

The Council operates a toll-free problem gambling referral service, conducts public education programs, and receives approximately fifteen calls from problem gamblers and their families each week. The Mount Auburn Center for Problem Gambling is affiliated with Mount Auburn Hospital, a short-term, acute care, private, non-profit general hospital. The Center, which offers in-patient and out-patient services, treats approximately one hundred persons for problem gambling at any one time. There are fewer than four problem gambling treatment centers in the Commonwealth, and the Mount Auburn Center is the only facility that receives public funding.

During the Committee's public hearings on gaming issues, testimony was submitted by the Compulsive Gambling Therapy Center of Worcester, a nonprofit counseling facility. Although Center representatives estimated that thirty percent of all problem gamblers have dual addictions (i.e. drug or alcohol abuse in addition to problem gambling), the Center concentrates solely on the issue of problem gambling. According to a representative, the Center received approximately 250 inquiries in 1993, and provided services to 125 persons, sixty-two of whom remained in treatment in early 1994.¹⁸

¹⁶Chapter 164 of the Acts of 1988.

¹⁷Office of Massachusetts Attorney General L. Scott Harshbarger, Department of Public Charities.

¹⁸Interview with representative of Compulsive Gambling Treatment Center, 1 February 1994.

Although problem gambling is universally acknowledged to be a social malady, few states have actively worked to address the condition. The Commonwealth has made a relatively small financial commitment to the issue, allocating less than \$300,000 to education and treatment, even though more than \$2.5 billion was legally wagered within the Commonwealth in 1993. Other states have allocated even fewer resources.

For example, Minnesota, which has more casinos than Atlantic City, annually appropriates less than \$250,000 for compulsive gambling education and treatment programs. The states of New York, Connecticut, and Florida all allocate less than \$150,000 for compulsive gambling programs, while Louisiana, which has implemented state-wide electronic gaming and is on the verge of implementing land-based casino gaming, has no annual appropriation for education or treatment programs.¹⁹

The lack of funding of problem gambling education and treatment programs may be linked to the relative dearth of quantitative research on the prevalence of the problem. Although there is no shortage of anecdotal evidence supporting the condition, few statistical analyses of problem gambling have been conducted. In fact, with one notable exception, the Policy Research Associates-NIMH project, no problem gambling prevalence survey has been conducted within the Commonwealth.²⁰

The Massachusetts Department of Public Health did compile, at the request of the Massachusetts Council on Compulsive Gambling, cursory information on incidents of lottery ticket buying by adolescents. The question, included in a 1990 cross-sectional survey measuring drug and alcohol use in secondary schools, asked:

- How often have you bought lottery tickets (Megabucks, Mass.Millions, Scratchpad) in your lifetime (ever), during the last twelve months (past year), during the past thirty days (past month)?²¹

¹⁹Texas and New Jersey both spend in excess of \$500,000 per year on problem gambling education and treatment programs. Interview with representative of the Massachusetts Council on Compulsive Gambling, 31 January 1994.

²⁰The previously referenced Policy Research Associates-NIMH survey established an important benchmark. It was, however, the first such survey conducted within the Commonwealth. As such, a follow-up study is required to affirm the project's findings.

²¹Interview with representative of Health and Addictions Research, Incorporated, 31 January 1994. The survey was administered in 1990.

The Department of Public Health released a preliminary report on the survey in December 1990. This report did not, however, include any discussion of the data compiled relative to the incidence of adolescent purchases of lottery tickets.²² To date, no other research on the gambling habits of Massachusetts residents has been sponsored by any agency of the Commonwealth.²³

Problem Gambling and State Gaming Policy

Problem gambling is a problem in every state, and will remain so regardless of the decision to expand gaming in Massachusetts. According to experts on the subject, state gaming policy affects problem gambling in two ways: by making newly legalized gambling venues 1) more accessible, and 2) more attractive to a wider segment of the population.

The physical act of locating a casino facility in Massachusetts would avail that venue to a segment of society who would otherwise not travel to Las Vegas or Atlantic City. Experts claim that a percentage of this new market could become problem gamblers.

In similar fashion, lending the state's imprimatur to a venue could expand the gaming market. Experts claim that a percentage of this new market could also become problem gamblers. For example, the illegal lottery street number, which was operated by organized crime, was shunned by a large segment of society. In 1972, however, the State Lottery turned the street number into the "Daily Number," which generated revenue for local services and attracted the patronage of thousands of people who would never associate or do business with a "bookie."

There are no data to support the contention that the introduction of electronic gaming, or casino gaming will cause an exponential increase in a state's problem gamblers. Nor are there data to support the contention that gaming venues "cause" problem gambling. Massachusetts currently offers legalized wagering on a narrow array of gaming options. And according to the Policy Research Associates-NIMH survey, approximately 2.1 percent of Massachusetts residents rank as problem gamblers. This percentage is similar, however, to those recorded

²²Substance Abuse Services, Department of Public Health, Drug and Alcohol Use Among Massachusetts Adolescents: A Preliminary Report, December 1990.

²³On 27 January 1994 the Massachusetts Council on Compulsive Gambling and the Zinberg Center for Addiction Studies at Harvard Medical School released a report based upon the 1990 DPH data. Despite its title (The Emergence of Youthful Addiction, The Prevalence of Underage Lottery Use and the Impact of Gambling), the report was not a prevalence study. The students were asked to define incidents of ticket purchases. They were not asked to define their opinions or values of gambling as an activity.

within the states of New Jersey (2.8 percent) which has legalized casino gaming, New York (2.8 percent) which supplies most of the Atlantic City market, California (2.9 percent) which supplies most of the Nevada casino gaming market, or Iowa and Maryland (1.7 and 2.4 percent, respectively).²⁴

Furthermore, the percentage of Massachusetts residents who are identified as "probable pathological gamblers" (2.3 percent) is higher than that recorded for New Jersey (1.4 percent), New York (1.4 percent), or California (1.2 percent). If accessibility were the determinant of problem gambling behavior, logic would dictate that New Jersey would list more persons at risk to the condition than the Commonwealth.

Legalization of additional venues would undoubtedly encourage greater participation by the broader population, and testimony indicates that a percentage of this group may develop problem gambling tendencies. However, it is doubtful that state policy only can be held accountable for the condition.

The five most popular venues that problem gamblers reported trying in Massachusetts were card playing, the State Lottery, pari-mutuel wagering, gaming machines, and sports betting. Three of these venues are currently illegal in the Commonwealth. Similar statistics were found in other states: sports betting was listed within the top five venues by problem gamblers in California, Iowa, Maryland, and New Jersey, while gaming machines were so listed within each of the six states surveyed. (See **Table Two: Types of Wagering Tried**).

Problem gamblers gamble regardless of the status of their venue of choice. Data indicate that although a portion of the general public have tried legal and illegal venues, problem gamblers report much higher levels of participation in illegal venues (see **Appendix II: Prevalence Rates of Illegal Wagering Venues**). For example, the ratio of problem to non-problem sports betting gamblers in California was 2:1. A similar ratio of was found for dice players in Iowa, Maryland, and New Jersey.

An expansion of gaming in Massachusetts may cause a marginal increase in problem gambling. However this increase may just as well occur in response to the expansion of gaming opportunities in Rhode Island, Connecticut, New Hampshire, or New York. Massachusetts

²⁴Gemini Research, Northampton MA.

TABLE TWO
TYPES OF WAGERING TRIED

<u>Problem Gamblers vs. General Population</u>							
	<u>CA</u>	<u>IA</u>	<u>MA</u>	<u>MD</u>	<u>NJ</u>	<u>NY</u>	
Lottery	86% 72%	71% 67%	88% 79%	93% 65%	86% 71%	74% 66%	
Casino	84% 69%	77% 30%	67% 38%	72% 46%	76% 72%	71% 43%	
Bingo	45% 27%	39% 31%	55% 29%	62% 49%	52% 40%	50% 38%	
Cards	75% 35%	92% 38%	91% 41%	55% 37%	69% 34%	60% 34%	
Parimutuels	45% 29%	62% 32%	82% 41%	52% 31%	50% 40%	64% 35%	
Stockmarket	16% 19%	71% 13%	27% 21%	28% 20%	31% 26%	14% 19%	
Gaming Machines	73% 65%	62% 37%	76% 38%	76% 48%	64% 62%	64% 44%	
Games of Skill	47% 19%	77% 18%	67% 17%	52% 22%	50% 17%	38% 18%	
Dice	53% 15%	31% 18%	52% 9%	35% 14%	36% 12%	33% 13%	
Sports	63% 29%	69% 24%	76% 24%	62% 28%	60% 25%	55% 24%	

source: Gemini Research

residents can not be insulated from gaming opportunities, or the hazards of problem gambling. A significant portion of Massachusetts residents are already within a short drive of land-based casino gaming. Current predictions that legalized gambling will be expanded in Rhode Island, Connecticut, New Hampshire, and New York indicate that this residential exposure will only increase. As such, the state should forcefully address the issue of problem gambling.

CONCLUSION AND RECOMMENDATIONS

The question behind the decision to expand gaming in Massachusetts is not dissimilar to the question behind the state's decision to allow liquor stores near the New Hampshire border to open on Sundays and holidays. That decision was based in economic reality, and not with regard to a social condition (problem drinking) that may, or may not, be exacerbated by the policy. The decision to expand gaming in Massachusetts should be based upon similar grounds. While the issue of problem gambling must be addressed, it should not become the sole determinant of whether or not the industry should be allowed to expand in Massachusetts.

Problem gambling is a public health concern, yet it is a danger to only a limited number of people. However, by restricting legalized gambling the state restricts the right of the vast majority of adult citizens to gamble in legal and well-regulated venues of their choice and stands to lose significant financial and economic benefits. The evidence suggests that denying most people the right to enjoy a relatively harmless form of entertainment, denying the state's treasury a much-needed boost, and denying the region much-sought after economic development will not protect a troubled but small percentage of society from their gambling compulsion. Simply stated, the problem gambler will gamble whether it is legal or not. However, their behavior should not restrict the recreational choices that could be legally available to others.

The Committee believes that the Commonwealth must make every effort to provide services and treatment to those who are unable to control their compulsion, just as the state regulates other social activities which may aggravate *compulsive or addictive* behaviors. Massachusetts public policy currently permits and regulates the sale, distribution, and consumption of alcoholic beverages, accommodating those who choose to drink, while possessing the knowledge that upwards of ten percent of alcohol users will do physical harm to themselves and others.

Concurrently, Massachusetts public policy toward gambling is fragmented and irrational. The Commonwealth allows some gaming venues, yet prohibits others, while possessing the full knowledge that less than three percent of those who do gamble are active "problem gamblers" and that these persons chiefly render financial harm to themselves.

The Commonwealth should make every effort to reconcile and make consistent its policy on

gambling as it has attempted to make consistent its policy on drinking.

RECOMMENDATIONS

- 1) That the Massachusetts Department of Public Health fund a comprehensive study to measure 1) the prevalence of compulsive, obsessive behaviors in Massachusetts; 2) the prevalence of problem gamblers in Massachusetts; 3) the prevalence of underage problem gamblers in Massachusetts; 4) the social cost of problem gambling in Massachusetts. Said study should also suggest an educational and treatment program applicable to problem gambling in Massachusetts, and include and define the target population to be served by such a program, and outline the required resources.*
- 2) That the Massachusetts Department of Public Health, in conjunction with the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling, develop and coordinate a state-wide problem gambling education and treatment program. All monies for this program should be funded through the Department of Public Health, including unclaimed prize money from the State Lottery, and revenues generated from racing and gaming facilities throughout the state.*
- 3) That the State Lottery annually transfer to the Department of Public Health five percent of their annual advertising budget, to be used to fund a state-wide problem gambling education and treatment program. These monies should be in addition to those currently appropriated from the Lottery's unclaimed prize monies.*

PART TWO: REGULATORY MATTERS

The New England gaming industry has exploded over the past twenty years. While once limited to pari-mutuel racing, bingo and a state lottery, the region's industry now also includes jai'alai, video poker, Keno, and casino gaming. New England is home to some of the most successful gaming operations in the country. The Massachusetts State Lottery has consistently ranked among industry leaders in terms of per capita sales figures, as has the Rhode Island greyhound racing industry, and the New Hampshire horse racing industry. The Mashantucket Pequot Indian owned Foxwoods Casino at Ledyard Connecticut is purportedly one of the largest and most successful casino operations in the world.

Yet while the gaming industry has grown greatly during the past two decades, the gaming regulatory structure has remained relatively static. Twenty years ago, gaming oversight in Massachusetts was provided by the state Racing Commission and the state Lottery Commission. Today, gaming oversight in Massachusetts is provided by these same two agencies. Both agencies work independent of each other, however, and have made no attempt to coordinate rules, regulations, or policies.²⁵

Surprisingly, the Committee found that Massachusetts was not alone in its fragmented approach to gaming regulation. With few exceptions, state governments initiate and implement gaming policy without regard to an overall plan. State racing commissioners generally implement pari-mutuel racing policy without regard to lottery policies, while lottery commissioners generally implement policy without regard to electronic wagering.

The statutes of Nevada and Connecticut are two exceptions to this rule. In 1961 the state of Nevada created a state Gaming Policy Committee, which was composed of the Governor, a member of the state's Gaming Commission, a member of the state's Gaming Control Board, a member of the state Senate, a member of the state Assembly, two members of the general public, and two members of the casino industry. All members were gubernatorial appointees, and served without compensation. The Committee met according to a schedule established by the governor and had the purview to make advisory recommendations in any area relative to gaming in Nevada.

²⁵The Lottery's Racing Action Instant Game represents the sole exception to this statement. However, this game was the direct result of a legislative mandate contained in Chapter 101 of the Acts of 1992.

The Nevada Gaming Policy Committee has the ability to make recommendations about inter-venue cooperation, and whether the state's gaming mix should be expanded, reduced, or maintained.

The state of Connecticut has also created a Gaming Policy Board, however this body also acts as the state's gaming regulator. The Connecticut Division of Special Revenue (which is contained within the Tax Department for administrative purposes) regulates and oversees the Connecticut gaming industry, including the state Lottery, jai'alai, charitable gaming, and pari-mutuel racing. (The Ledyard casino facility is an unregulated Indian gaming site, beyond the scope of state oversight. The Division does have five auditors at the facility to oversee its video wagering component (slot machines); the state receives a percentage of these revenues in exchange for allowing the tribe exclusive rights to the venue.)

The Division of Special Revenue is essentially the administrative arm of the state Gaming Policy Board. The Board, which is composed of five gubernatorial appointees, renders all final decisions with regard to gaming policy in the state. The Gaming Policy Board is also responsible for advising the governor on gaming policy matters, and is statutorily charged with examining "the desirability of expanding, maintaining or reducing the amount of legalized gambling" in Connecticut. The Board's research is conducted by the Division of Special Revenue.

Although most states have not developed a gaming policy board, many have created gaming regulatory agencies. State commissions oversee the thirty-six public (and quasi-public) lotteries which are currently in operation around the country while forty-four separate state racing commissions regulate the pari-mutuel industry.

These regulatory bodies regulate one of the two basic categories of gaming: skilled or unskilled venues. Skilled events, such as pari-mutuel racing, jai'alai, card games, and certain electronic wagering machines (video poker) allow a bettor improved chances of winning through the use of acquired knowledge or skill, and are generally regulated by state racing commissions. Unskilled events, such as state lotteries, charitable games, and bingo, involve random chance, and are generally regulated by state lottery commissions.

Few states merge the oversight of skilled games and unskilled games. State lottery commissions do not oversee pari-mutuel wagering, casino gaming, or card rooms. State racing commissions

do not oversee lottery operations.²⁶

In recent years, with the expansion of casino gaming, many states have expanded their oversight capabilities accordingly. The states of Illinois, South Dakota, Colorado, Iowa, Mississippi, Louisiana, New Jersey, and Nevada, which all offer some form of casino gaming, have all developed state gaming commissions. The state of Missouri has also recently developed a gaming commission, although casino gaming has yet to be implemented in that state.

Most state gaming commissions were established one year before casino gaming was introduced into their state's portfolio. State gaming commissions regulate land or water-based casino gaming, and are responsible for establishing regulatory strictures, enforcing statutory compliance, and rendering licensure decisions. They are composed of gubernatorial appointees, whose policy directives are implemented by a subordinate agency, the state gaming board, whose director is generally appointed by, and answerable to, the commission.

The Committee found that state gaming commissions are constructed around one of two basic regulatory models:

- a part-time commission which delegates authority to a full-time board; or
- a full-time, policy oriented commission which implements policy through a regulatory agency.

The Nevada Gaming Commission and the New Jersey Casino Control Commission are examples of the two basic regulatory models.

● The Nevada Gaming Commission is a part-time commission that is responsible for setting broad licensing policy, and for making final decisions with respect to license applications. The Nevada Gaming Commission, however, cedes operational and regulatory oversight to its subordinate agency, the Nevada Gaming Control Board, which is staffed by full-time employees and independently sets administrative and regulatory policy.

● The New Jersey Casino Control Commission is composed of three full-time Commissioners who oversee the day-to-day operation of the commission, set the state's gaming policy, and actively regulate the state's gaming industry. The New Jersey commission does not, however, implement licensing investigations. All investigative functions are carried out in New Jersey by the state's Attorney General.

²⁶Electric wagering and bingo are exceptions to this rule; the Rhode Island, Oregon, South Dakota, and West Virginia state lotteries regulate the former, while the Iowa, Mississippi, and Nevada state gaming commissions regulate the latter.

State gaming commissions are responsible for approving state gaming licenses. Prospective license-holders must undergo strict background investigations and criminal history checks. To minimize conflicts of interest many states have separated the functions of license-holder investigation and license-holder approval. For example, while the gaming commissions of Louisiana, Iowa, and Illinois all render the final decision relative to license approval, license investigations in these states are conducted by their departments of public safety.

Characteristics of State Gaming Commissions

Examples of state gaming commission characteristics include:

Illinois Gaming Board

- created in March 1990 (gaming implemented 1991)
- five gubernatorially appointed commissioners
- part-time commission, meets monthly
- commission appointed administrator
- enforcement, finance, and audit staff hired by sundry deputy administrators; total staff of forty-five
- policy set by commission and administrator
- investigations carried out by enforcement division via contractual agreement with state police
- commission oversees casino gaming

South Dakota Commission on Gaming

- independent commission (within Department of Commerce for budgetary authorization)
- created in April 1989 (gaming implemented November 1989)
- five gubernatorially appointed commissioners
- part-time commission, meets monthly
- commission appointed executive director
- staff hired by director; total staff of sixteen
- policy set by commission
- commission implements investigations
- commission oversees pari-mutuel racing and casino gaming

Colorado Division of Gaming

- within Department of Revenue
- created in June 1991 (gaming implemented October 1991)
- five gubernatorially appointed commissioners
- part-time commission, meets monthly
- director of Department of Revenue appoints executive director of gaming board
- staff hired by gaming board director; sixty-two total staff
- policy set by commission
- commission implements investigations
- commission oversees limited stakes casino gaming

Iowa Division of Racing and Gaming

- within Department of Inspections and Appeals;
- gaming added to Division in April 1989 (gaming implemented April 1991)
- five gubernatorially appointed commissioners
- part-time commission
- commissioners appoint administrator
- administrator hires staff; total staff of forty
- policy set by commission
- Department of Public Safety's Division of Criminal Investigation implement investigations
- commission oversees pari-mutuel racing, bingo, and casino gaming

Mississippi Gaming Commission

- independent commission (separated from Tax Commission in 1993)
- created in October 1992 (gaming implemented October 1992)
- four gubernatorially appointed commissioners
- commission appoints executive director
- executive director hires staff; total staff of fifty-seven
- policy set by commission
- commission implements investigations
- commission oversees bingo, and casino gaming

Louisiana Gaming Commission

- independent commission
- created in 1992 (gaming implemented 1993)
- seven gubernatorially appointed commissioners
- board's executive director and employees work for the state's attorney general
- administrative policy set by commission
- regulatory policy set by state police
- state police implement investigations
- commission oversees casino gaming

New Jersey Casino Control Commission

- within office of New Jersey state Treasurer
- created in 1977 (gaming implemented in 1978)
- five gubernatorially appointed members, confirmed by the Senate
- commission appoints executive secretary
- commission hires staff; total staff of 383
- policy set by commission
- New Jersey Attorney General's Division of Gaming Enforcement implements investigations
- commission oversee casino gaming

Nevada Gaming Commission/ Nevada Gaming Control Board

- independent commission
- created in 1955 (gaming implemented 1931. Previous oversight rendered on county and city level)
- Commission: five gubernatorially appointed members
- Board: three gubernatorially appointed members, one of whom is chairman, and who serves as board's executive secretary
- executive secretary hires staff; total staff of 372
- licensing policy is set by Commission

- administrative and regulatory policy is set by Board
- commission implements investigations
- commission oversees casino gaming, charitable gaming, and bingo.

There are no ex officio gaming commission members. Each state gaming commission surveyed by the Committee is made up of gubernatorial appointees who are often required to possess training or expertise in specific fields. For example:

- Directors of the Louisiana Economic Development and Gaming Corporation must provide the President with "private-sector perspectives on the operation of a large gaming enterprise."
- Members of the Colorado Limited Gaming Control Commission must include a person with at least five years of law enforcement experience, an attorney, a certified public accountant; a person engaged in business management, and a registered voter.
- At least one member of the Illinois Gaming Board must be experienced in law enforcement, at least one a certified public accountant, and at least one an in-state practicing attorney.

Many states statutorily prohibit certain individuals from gaming commission appointments:

- New Jersey Casino Control Commission employees can not have been employed in a Commission-regulated position for three years prior to their prospective employment date, and are prohibited from similar employment two years after leaving the Commission.
- No member of the Iowa Racing and Gaming Commission may place a wager on any race or casino regulated by the Commission.
- The states of New Jersey and Nevada prohibit members of the legislature from serving on their gaming commission.
- Nevada prohibits anyone who is a member of any committee of any political party from serving on its gaming commission.
- No member of the South Dakota Commission on Gaming may hold more than two consecutive three year terms.

State gaming commissions may be statutorily charged with performing extra-regulatory research duties. The New Jersey Casino Control Commission is charged with carrying on "a continuous study of the operations and administration of casino control laws" and "federal laws which may affect the operation of casino gaming" in the state. This statute, similar from that found in virtually every state's lottery statute, mandates that the gaming commission advise policy makers of changes that must be made to preserve their respective market share and

revenue flow.

Examples of other Commission related duties include:

● **The Nevada Gaming Commission:**

- to inspect all premises wherein gaming is conducted or gambling devices manufactured;
- to inspect all equipment and supplies in such premises;
- to seize any equipment or supplies for examination and inspection;
- to demand access to and inspect papers, books, and records of applicants on their premises.

● **The Colorado Limited Gaming Control Commission:**

- to promulgate such rules and regulations governing the licensing, conducting, and operation of limited gaming;
- to formulate and recommend statutory changes;
- to issue licenses to those involved in limited gaming;
- to establish and collect fees and taxes.

● **The New Jersey Casino Control Commission:**

- to grant license applications;
- to conduct hearings pertaining to civil violations of the gaming act;
- to promulgate regulations;
- to collect license and registration fees;
- to levy and collect penalties for violations of the gaming act;
- to inspect and investigate casino operations, and rules upon complaints by casino licensees regarding investigative procedures which are disruptive to casino operations.

Some states, such as Colorado and Nevada, have provided their gaming commissioners, and certain staff, with police powers. These powers allow interaction and information sharing with federal, state, and local law enforcement agencies. According to the Federal Bureau of Investigation, providing a gaming commission with police power is especially useful during license application approval processes.

Gaming Regulation in Massachusetts

Massachusetts does not have a comprehensive gaming regulatory body. Unskilled gaming oversight is provided by the Massachusetts State Lottery Commission, while skilled gaming oversight is provided by the state Racing Commission.

The Lottery Commission is composed of five members, three of whom are ex officio (the state Treasurer, the state comptroller, and the secretary of public safety), and two who are gubernatorial appointees. The state Treasurer serves as the Lottery Commissioner.

The state Racing Commission is composed of three gubernatorial appointees, one of whom serves as the state's full-time racing commissioner, and two part-time associate commissioners who attend weekly commission meetings. The Racing Commissioner is statutorily charged with devoting "his full time during business hours to his official duties." All commission members receive compensation for their duties.

The Lottery Commission is statutorily charged with conducting and determining various aspects of the state's lottery, and is empowered to establish and revise the lottery's rules and regulations.

The Racing Commission is charged with approving racing applications, and with overseeing, regulating, and enforcing the rules of the state's pari-mutuel racing industry.

The Massachusetts State Lottery Commission is not a policy making body. It meets irregularly and rarely in full attendance. Commission minutes show that, from March 1991 through December 1992, the Commission met eleven times, during which the state treasurer attended all of the meetings, the state comptroller attended 81 percent of the meetings, the two gubernatorial appointees each attended 63 percent of the meetings, and the secretary of public safety attended less than 40 percent of the meetings.

State Lottery policy is initiated and implemented by the state Treasurer and the Lottery's executive director, who is appointed by the Treasurer. Although charged with approving certain contractual agreements, a review of meeting minutes indicates that the Commission does not vote to approve changes in Lottery policy, or to request public policy research.²⁷

The Massachusetts State Racing Commission, on the other hand, is a policy making body. The Commission meets weekly, and votes on policy when adding to or amending previously

²⁷A review of "Lottery-By-Phone" provides a concise example of the Commission's role (or lack thereof) in the initiation and implementation of Lottery policy [See Senate No. 1480, April 13, 1992]. For example, the Commission never voted to approve Lottery-By-Phone, a program which violated Massachusetts general law, or to request public policy research on the program, despite M.G.L. Ch. 10 S. 24, which charges the Commission with making "a continuous study and investigation of the operation and administration of similar laws in other states or countries, of any literature on the subject which from time to time may be published or available, of any federal laws which may affect the operation of the lottery, and of the reaction of citizens of the commonwealth to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to better serve and implement the purposes of the state lottery law" and reporting "immediately to the Governor and the General Court any matters which require immediate changes in the laws of the commonwealth in order to prevent abuses and evasions of the lottery law or rules and regulations. . . ."

sanctioned state racing policy.²⁸ The Racing Commission is not charged with conducting on-going research relative to the state's pari-mutuel racing industry.

There is no on-going dialogue between the state Racing Commission or the state Lottery Commission. Consequently, the Massachusetts gaming industry is its own best competition. Except for one legislatively mandated racing sweepstakes program,²⁹ the state Lottery has never developed an inter-agency initiative with the pari-mutuel industry. The Lottery has, however, established a presence at pari-mutuel facilities. State lottery sales agents are located at each pari-mutuel facility in the state, as are Instant Game ticket vending machines and Keno counters.

In 1993 over \$9.4 million was wagered on the state Lottery at the state's four pari-mutuel racing facilities. While this represents less than 0.4 percent of the total amount wagered on the Lottery during 1993 it represents approximately three percent of the total amount wagered on pari-mutuel events, and is, arguably, revenue that was diverted from the state pari-mutuel racing industry.³⁰

²⁸For example, the following was sent to the Secretary of Consumer Affairs by the Chairman of the State Racing Commission on January 2, 1992:

"On Friday, December 27, 1991, Sterling Suffolk verbally requested permission of the Commission to sell the signal of their live cards effective January 1, 1992 to out of State (sic) entities. They attended a meeting at the Commission Offices to request this permission but did not provide contracts or proposals. I informed Sterling Suffolk that no permission could be considered without a review of the contracts and the Laws and Regulations regarding this request. I also informed Sterling Suffolk that I would be available 24 hours a day from that point on to review the contracts. On Monday, December 30, 1991 at 1 p.m. I was handed a single contract to simulcast with Rockingham, N.H. Sterling Suffolk informed me that a decision was necessary by 6 p.m. that same evening. I requested through your office a ruling from the Attorney General whether the Commission has the authority to grant such a request. Your office informed me that the Attorney Generals (sic) Office returned said request and advised to seek opinion from our own counsel.

"I telephoned (counsel) who advised after review that the Commission did not have the authority to grant permission to simulcast. Using this advice and the fact that the contract between Suffolk and Rockingham provided no takeout for the State, Breeding, Tufts, or the Promo Fund I cast my vote in the negative. The 2 Associate Commissioners (were) aware of the same advice and facts and voted affirmatively. By this vote Suffolk began simulcasting January 1, 1992.

"I have been in conversation with both (chairmen of the Joint Legislative Committee on Government Regulations) who have informed me they view this as a circumvention of existing law and an act out of the authority of the Commission.

"For the purpose of being on the record, I am informing you that the decision of this Commission was short sighted and not in the best interests of the State, or Racing in general. I have been in communication with counsel, and am reviewing this entire matter."

²⁹Section seven of chapter 101 of the Acts of 1992 directed the Lottery Commission to conduct a racing sweepstakes game in conjunction with, and for the benefit of, the Massachusetts pari-mutuel racing industry.

³⁰As a lottery sales agent, the pari-mutuel facility license holder retains five percent of all lottery sales made at his facility and a percentage of the winning ticket prize monies. The following represents the total Lottery sales made at each track in 1993: Raynham Park = \$6,426,001; Suffolk Downs = \$1,383,217; Wonderland Park = \$1,172,274; Foxboro Park = \$418,759.

CONCLUSION AND RECOMMENDATIONS

The Committee believes that the Commonwealth must update, and streamline its approach to gaming oversight in Massachusetts. The Commonwealth is attempting to regulate one of the fastest growing sectors of the economy with an outdated regulatory structure. Left unchanged, this structure will not adequately address the realities of the gaming industry.

Most realistic observers of the industry agree that expanded gaming is coming to Massachusetts, in some fashion, in the very near future. This will come about under one or more of the following actions:

- the development of unregulated Indian casino gaming;
- the development of off-track betting;
- the development of electronic (video) wagering machines;
- the development of regulated casino gaming.

Poorly planned, any of these actions could have a detrimental impact on the state's existing gaming venues. For example, the implementation of a single unregulated Indian casino facility that held exclusive rights to electronic wagering could destroy the state's pari-mutuel industry.

The Commonwealth does not have an agency that can plan the state's gaming policy. Policy decisions that favorably affect one segment of the industry may have an unfavorable impact on another segment. A venue change that is beneficial to the state Lottery may adversely affect the pari-mutuel industry. To control the impacts of intra-state competition, the Committee believes that the Commonwealth must develop a state-wide gaming policy board.

This board should be required to meet regularly, and define the state's overall gaming policy, including the maximization of state revenue, the use of gaming as an economic stimulant and source of employment, and the desirability of retaining revenues that would otherwise flow beyond the state's border.

The board should also annually formulate the state's gaming advertising policy including,

- 1) defining the goal of such advertising (stabilization or maximization),
- 2) devising basic guidelines (i.e. prohibiting Lottery sponsorship of events targeted at adolescents and minors),
- 3) constructing disclaimer messages (i.e. the Lottery is entertainment and should not be looked to as a source of economic support), and
- 3) maximum budgetary outlays.

State gaming advertising policy should mandate that a set percentage of the advertisement budget be set aside and allocated to the Department of Public Health for problem gambling education and treatment programs (*see Section One, Recommendation Three*).

The gaming policy board should be required to annually file legislation affirming the preservation, expansion, or reduction in the state's gaming mix. This decision should be based on a number of factors, one of which should be the economic benefits of the particular type of gaming. Decisions about the state's gaming mix should remain independent from decisions about the state's gaming regulatory structure. The Committee believes that sound regulation is best maintained when a degree of tension exists between an industry and its regulator, so that the function of regulation does not become a captive of the industry's success.

As such, the state should also create a state gaming commission to develop, implement, oversee, and regulate all skilled gaming in the Commonwealth, with the exception of pari-mutuel racing. This commission should be made up of three full-time commissioners, appointed by the governor, who devote their full attention and duties to the development, regulation, and oversight of casino gaming, and electronic wagering in Massachusetts.

The commission, which would be responsible for approving (and annually renewing) licenses for gaming facilities in Massachusetts, should have broad oversight and regulatory powers, which enable it to establish rules and regulations, and demand conformance and compliance with those regulations. For example, it should be empowered:

- to devise maximum per capita venue limits (i.e. the number of video wagering machines per 10,000 municipal residents) to prevent geographic targeting by the industry, and
- to devise any applicable betting and loss limits.

The commission's regulatory oversight should extend beyond gaming license-holders and include businesses and corporate entities that provide ancillary services to the license-holder. Furthermore, the commissioners, and certain commission employees, should be empowered with fundamental law enforcement powers to facilitate information sharing with federal, state, and local law enforcement agencies.

Annual operating appropriations should be funded through an annual assessment placed upon the gaming license holders. It should be made clear that no applicant for a gaming license in

Massachusetts has any right to such a license. Any state gaming license that is granted by the state is revocable by that same state.

A state gaming commission should be authorized:

- to promulgate regulations, and demand conformance and compliance to same;
- to approve, renew, or suspend gaming licenses (after requisite investigations, which should be conducted by the offices of the state Attorney General);
- to collect license and registration fees;
- to inspect all premises wherein gaming is conducted or gambling devices manufactured, and to inspect all equipment and supplies in such premises;
- to implement and inspect a series of internal controls to safeguard against improper fiscal procedures;
- to demand access to and inspect papers, books, and records of applicants on their premises;
- to levy and collect penalties for violations of gaming regulations;
- to continuously investigate and research gaming policy issues and tender non-binding advice to the governor on statewide plans and goals for legalized gambling.

Research indicates that, in many states, gaming commissions were created well in advance of the venues that they later regulated. The Committee believes that the public policy of the Commonwealth would now be best served by the creation of a state gaming commission to oversee the development of the Massachusetts skilled gaming industry.

RECOMMENDATIONS

- 1) *The Commonwealth should establish a Massachusetts Gaming Policy Board, composed of the Lieutenant Governor of the Commonwealth, the Attorney General, the state Treasurer, the secretary of Consumer Affairs, the state Racing Commissioner, the executive director of the Massachusetts state Lottery, the Secretary of Public Safety, and the commandant of the Massachusetts State Police.*
- 2) *The Commonwealth should establish a Massachusetts State Gaming Commission.*

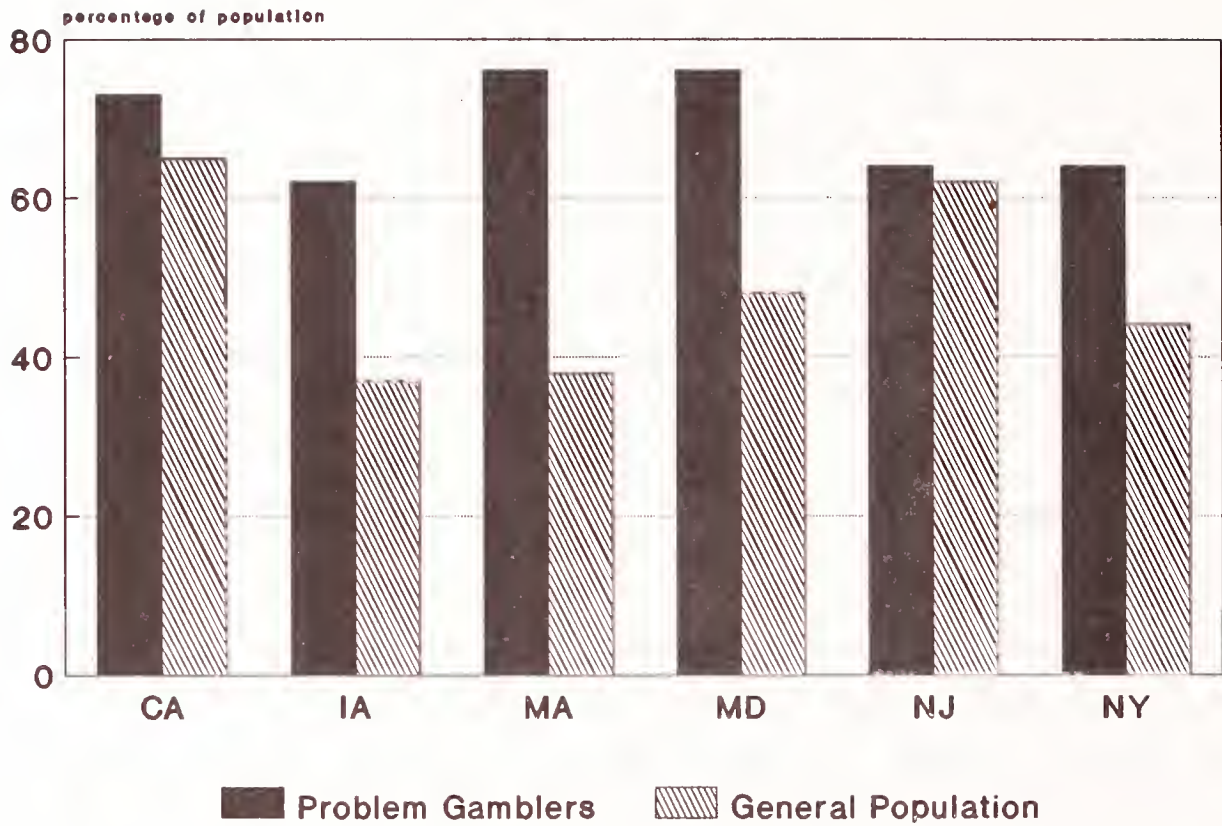
APPENDIX I
Gamblers Anonymous Screen

(A person answering "yes" to seven of these questions would be defined as a problem gambler by Gamblers Anonymous.)

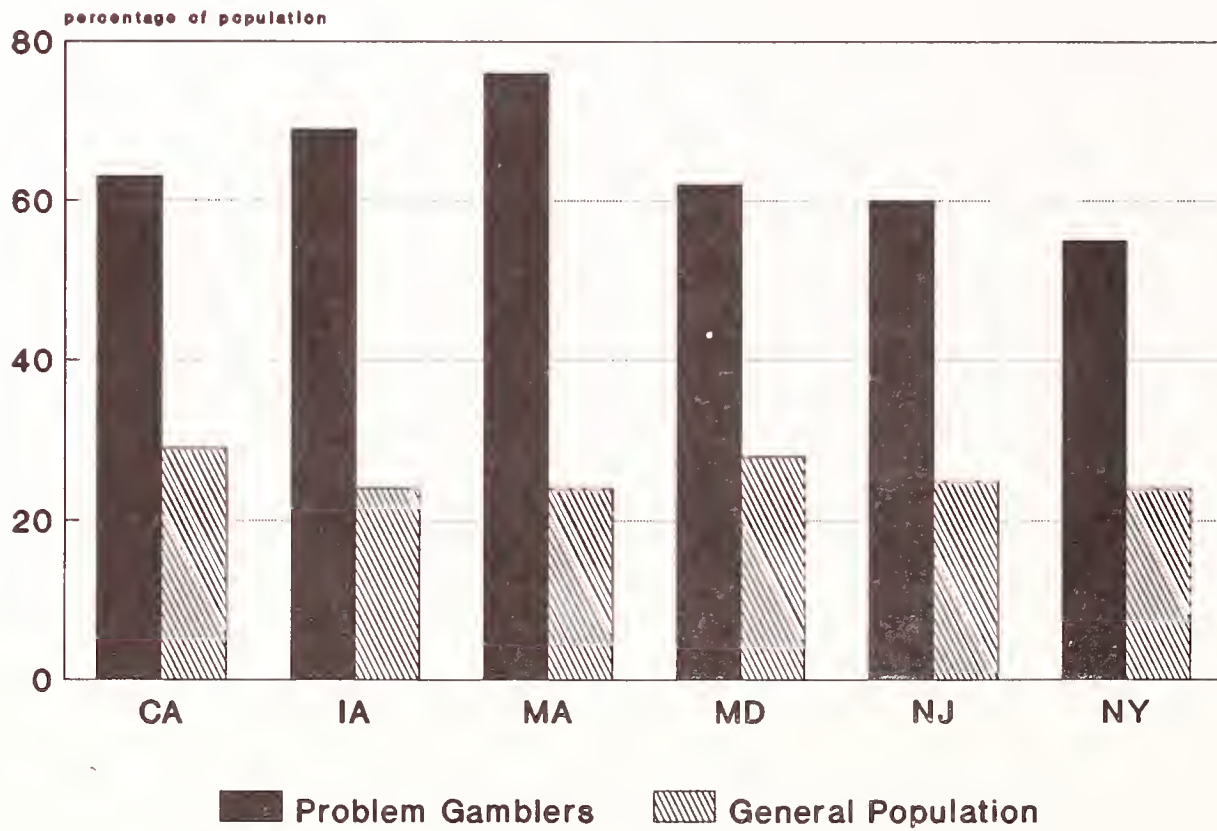
1. Did you ever lose time from work due to gambling?
2. Has gambling ever made your home life unhappy?
3. Did gambling affect your reputation?
4. Have you ever felt remorse after gambling?
5. Did you ever gamble to get money with which to pay debts or otherwise solve financial difficulties?
6. Did gambling cause a decrease in your ambition or efficiency?
7. After losing did you feel you must return as soon as possible and win back your losses?
8. After a win did you have a strong urge to return and win more?
9. Did you often gamble until your last dollar was gone.?
10. Did you ever borrow to finance your gambling?
11. Have you ever sold anything to finance gambling?
12. Were you reluctant to use "gambling money" for normal expenditures?
13. Did gambling make you careless of the welfare of yourself and your family?
14. Did you ever gamble longer than you had planned?
15. Have you ever gambled to escape worry or trouble?
16. Have you ever committed, or considered committing, an illegal act to finance gambling?
17. Did gambling cause you to have difficulty in sleeping?
18. Do arguments, disappointments or frustrations create within you an urge to gamble?
19. Did you ever have an urge to celebrate any good fortune by a few hours of gambling?
20. Have you ever considered self destruction as a result of your gambling?

APPENDIX II
Prevalence Rates of Wagering on Illegal Venues

Gaming Machines

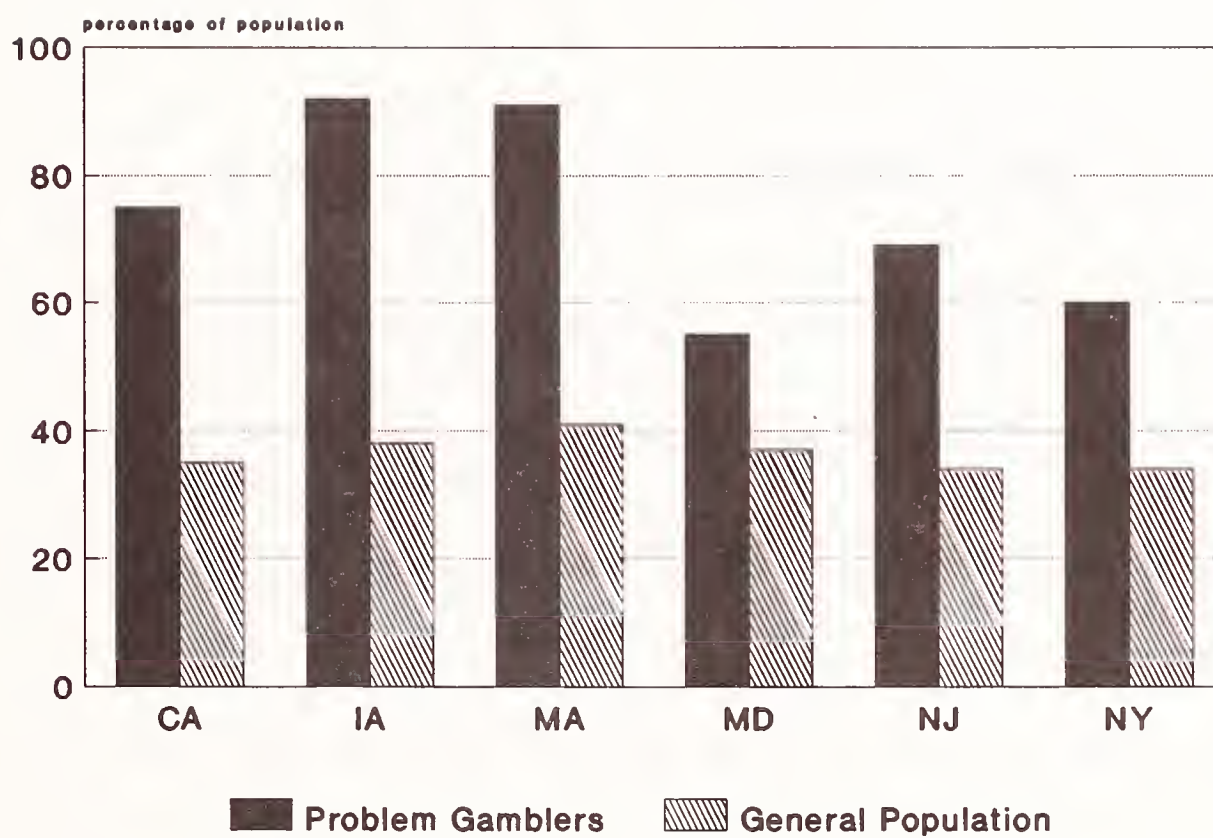


Sports Betting



source: Gemini Research

Card Gambling



source: Gemini Research

**REPORTS OF
SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT
SEN. THOMAS C. NORTON, CHAIRMAN**

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- 2/94 Policy Review of the Commonwealth's Economic Development Efforts
- 1/94 Toward Gaming Regulation, Part I: Crime. S.100
- 12/93 A Performance Review of the Massachusetts Office of Business Development. S.1872
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